

OF

MR. BURNS OF RICHLAND,

ON THE

SEVERAL RESOLUTIONS ON THE SUBJECT

OF THE

“FUGITIVE SLAVE LAW.”

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IN SENATE---January 17, 1850.

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# SPEECH.

Mr. Burns said: Mr. Speaker, It seems to be the wish of the Senate, to dispose of the resolutions now under consideration, before proceeding to the other and more important business awaiting our action; in this desire, I most heartily concur, the discussion has been already protracted to a very considerable length, and there are other gentlemen, who, I understand, desire to submit their views, before the question shall be taken on the passage of the resolutions. There is a large amount of business now pending, which ought to be acted upon, and that, too, in preference to these abstract questions, over which we have no power; but inasmuch as I will be called upon to vote, either for, or against, the several resolutions, submitted for our consideration. I deem it nothing but justice to myself, and to those who have entrusted me for the time being, with their power over this, and kindred subjects, as well as those subjects which immediately and particularly interest them, to say barely enough to be understood; to define my position, and nothing more; and in doing so, I confess, Mr. Speaker, I approach the subject with no little concern. Not only on account of the magnitude of the question; but of my distrust of my own abilities. And here, let me say to the Senate, and the country at large, that I shall not enter into a defence of the so called "Fugitive Slave Law," in all its particulars. Indeed, I have been solicited by some of my democratic friends, to remain silent on the subject; content myself, by casting a silent vote, and let the whig party—under whose control the government now is—come to its rescue. To this, I could not consent. I have no concealments to make politically. Those who know me here, and at home, will bear me out, in this assertion. I have never been accused, even, by my enemies, of advocating whig principles; but on the contrary, I always have been, and always expect to be, found arrayed against what I understand to be whig doctrines. But when the question of a dissolution of the Union, is mooted, I trust I shall always be found on the side of "union," irrespective of party. Although, I acknowledge allegiance to party, yet, when it comes in contact with my allegiance to the Union, the latter rises above, and beyond, mere party ties, or party trammels. By this, I do not mean that I intend either now, or hereafter, to join this new party, which is being attempted to be gotten up, by certain gentlemen in high places, by no means.

Mr. Speaker, the democratic party, is Union party enough for me; it is not only the Union party, but the party of the Union. And if ever the union of these States, shall be severed, it will be, when the democratic party shall have ceased to be. It has preserved our liberties thus far, and I trust in God, that, although all others may forsake the "Star Spangled Banner," and basely desert their country, in the hour of peril, that the democratic party will cling the closer to it, and bear it aloft, far above the raging elements of discord and disunion, which would rend it assunder; and were I disposed to sermonize, I would ask no better text, than that given by that great and good man, Andrew Jackson, "The Union, it must, and shall be preserved."

But, Mr. Speaker, I am digressing. I said I did not intend to defend the Fugitive Law, in all its particulars; neither will I, There are some objectionable

features in that law, and which, in my opinion, ought to be stricken out—but of which, I will speak more particularly hereafter.

There are three different sets of resolutions now pending, neither of which I can fully endorse. For some of them, I intend to vote, and others I intend to vote against. Those offered by the Senator from Pickaway, come the nearest to my notions of right on the subject, and with some slight amendments, as I now understand them, I can, and will, cheerfully vote for them. I shall not, therefore, direct the remarks which I am about to make, in support of any, or all, of the resolutions which have been offered, and are now before the Senate; but shall confine myself more particularly to the constitutionality of the "Fugitive Law;" for after all, that is the real question at issue.

I shall not attempt, for the present, to reply to the "Higher Law" notions of the Senator from Medina, (Mr. Pardee,) but will pay my respects to him before I close. If I understood the positions of the Senator from Trumbull [Mr. Sutcliffe] rightly, they were these. The law is *unconstitutional*, first, because there is no express grant in the Constitution authorizing it, and second, because it is in conflict with other portions of the Constitution securing to the citizen personal liberty. And on these two points mainly, the Senator rests or bases his opinion of its unconstitutionality. On these points I propose briefly to submit a few thoughts. And in order that we may the better understand where we are and what we are talking about, allow me to read the sections or clauses of the Constitution under which as I conceive, Congress has the power to pass the law complained of. The latter clause of the 1st Section, 4th Article reads thus:

"No person held to service or labor in one State, under the laws thereof, escaping into another, shall, in consequence of any law or regulation therein, be discharged from such service or labor; but shall be delivered up on claim of the party to whom such service or labor may be due."

In juxtaposition with this, and in the same section, there is another paragraph on a kindred subject, one on which I shall have occasion to speak in the course of my remarks, I will therefore read it here. It is in these words—

"A person charged, in any State, with treason, felony, or other crime, who shall flee from justice, and be found in another State, shall, on demand of the Executive authority of the State from which he fled, be delivered up to be removed to the State having jurisdiction of the crime."

Now, Mr. Speaker, let us look for a moment at the first paragraph, what is it? It is in my judgment, nothing more nor less, than a negative or prohibitory clause, prohibiting the State from passing certain laws. And when that is said it is all said; but it asserts a right, the power, to enforce which must rest somewhere, the question naturally arises, where does this power find a lodgment? We will see, by and by. The Constitution not only provides in direct terms what laws Congress shall pass, and what they shall not pass, but it also enumerates certain laws which the States shall not pass, among which is to be found the one relating to fugitives from labor. In order to make this still

more plain, let me transpose the clause in the Constitution just quoted and read it in this wise, (and I think even the Senators from Frambali, Medina and Ashtabula will agree that neither the sense nor the evident intention of the paragraph is at all destroyed or perverted.)

"The party having a claim to the service or labor of any person who may be held to service or labor in one State, under the laws thereof, escaping therefrom, shall have the right to pursue and reclaim the person so escaping; nor shall the State into which such person shall have escaped, pass any law by which he shall be discharged from such labor or service, but he shall be delivered up to the person so claiming him."

Now, with this reading, what do you understand from it? Nothing more, and certainly nothing less than what I asserted in the outset—a mere prohibitory clause, effecting the State authorities, that is all. But you ask how is the master to proceed to reclaim his slave? Is he to proceed either alone, or with a sufficient force, and hunt him down as he would the wild deer in the forest? or shall he be required to come clothed with the majesty of the law? Every good citizen will answer at once in favor of the latter. Then how is he to be thus clothed? The constitution has guaranteed to him the right, not only to hold slaves, but the right to pursue and reclaim them, when they shall escape. What power is there to carry this guaranty of the constitution into effect? It cannot be that it is a naked declaration of principle, without any authority to carry it out. No man will be willing to cast such a severe reflection as that upon the memory of those illustrious patriarchs, who framed that instrument. The free States either cannot or will not make it effective. The slave States find themselves powerless—the country is rocked to and fro—the ship of State is tempest tossed, and even the oldest mariners begin to fear that she will not be able to weather the storm; each succeeding wave rises higher and higher, and ever and anon the dashing spray sweeps across the deck. The timid stand aghast—the cowards and traitors begin, one by one to desert her, and leave her to become the prey of designing men, both at home and abroad. In such a crisis what is to be done? Where shall the true friends of the Union look for succor, but to the Union herself. She possesses the power of self-preservation, and, if needs be, will exercise it. Such a crisis as I have described, had come—fanatics at the north and at the south, were busily engaged in filling the public mind with ideas of disunion and dissolution—meetings had been held in the free States, as well as in the Slave States, denouncing the Union in the most bitter terms imaginable. In this condition of affairs, Congress, the only body possessing the power, the only department of government, in which and through which the will of the whole people could be reflected, were brought to act; they did act, and although what they have done does not suit me in its details, yet that they had the constitutional power to do what was done I have not the slightest doubt. What other body, I again ask, had the power to interfere in the terrible conflict which was going on? Was it not, then, right and proper that oil should be poured upon the troubled waters, which were foaming and lashing themselves into mountain high, and threatening to overwhelm us?

But perhaps my friend from Frambali is ready to ask, if, as you admit the power is not expressly granted, where do you find it implied? I answer, that I find the power in the latter clause of Section 1, 1st article, which says that Congress shall have power "to make all laws which shall be necessary and proper for carrying into execution all powers vested by the constitution in the Government of the United States &c."

This clause clearly implies the power in Congress to carry into effect, all guarantees of the Constitution either of a domestic or foreign nature, it has guaranteed to the owners of slaves in one State, the right to reclaim and retake them when they shall have fled into another. Therefore Congress possesses the right to pass such laws as will be compatible with justice and sound policy in carrying out this clause of our Federal Constitution. It seems to me, Mr. Speaker, that this proposition is so plain that it need only to be stated in order to be seen and admitted as true at once; in connection however with this I desire to say that I am no advocate for slavery, it is a blighting curse upon the fairest-enteehon of our country's glory. But it is part and parcel of that heritage which was bequeathed to us by our forefathers, and we must deal with it as we find it, and must take it as it comes to us, and not as we would have it were we at liberty to choose. The framers of the constitution would doubtless have been glad to have eradicated the evil, but were unable to do so; it therefore became one of the compromises of the Constitution, and as such has been regarded and I hope will ever be, until the States themselves shall finally uproot it. I would not by my vote or action either here or elsewhere, aid in extending slavery over one foot of territory now free, but on the contrary I would so far as warranted by the Constitution and sound policy give my assistance in circumscribing the institution of slavery instead of enlarging it.

Mr. Randall. Does the Senator from Richland believe that Congress has the power to abolish slavery in the district of Columbia, and if so ought that power to be immediately exercised; does the Senator believe that Congress has the power to abolish slavery in the territories?

Mr. Burns. I will answer the Senator from Ashtabula by saying, that I do believe Congress has the power to abolish slavery in the district of Columbia. I have never doubted it but I always have and do now doubt the policy or propriety of doing so, in short, I do not believe the power ought to be exercised; as to the power of Congress, over slavery in the territories. I supposed that even the Senator from Ashtabula had acquiesced in the well settled doctrines on the subject. I believe it is now admitted on all hands that Congress has no power, either to establish or abolish slavery in the territories, or in other words, slavery is a local, municipal regulation, governed by municipal laws, and cannot exist except by virtue of the position and affirmation authority of law. Slavery does not now exist in the territories, they are free, there is no slavery there, to abolish, and with the admitted fact staring us in the face, that Congress has not power to establish it. I would like to know how slavery was ever going to get there, is the Senator satisfied?

Mr. Randall. I would like to know from the Senator from Richland, if Congress, in extending the boundaries of Texas did not extend the area of slavery?

Mr. Burns. The Senator will recollect that the question of the boundary of Texas was left an open question both in the treaty with Mexico and in the resolutions of annexation with Texas herself, and if the claim of Texas to the boundary as agreed upon, was well founded and she actually had jurisdiction over the territory claimed then the area of slavery was not extended, and Congress only settled the question of boundary, which she was under obligations to do, without reference to slavery, with the same degree of propriety I might contend that Congress had abolished slavery in settling the question of boundary between Iowa and Missouri. But let us return to the question, I am not a latitudinarian constructionist, I go in favor of a strict construction of the constitution and am willing to rest the correctness of my position on that

doctrine, if Congress has not the power, what other tribunal has? The power is not given to the Legislative department of the several States, neither by the federal constitution nor by their own constitution, at least so far as Ohio is concerned, if it is, I stand ready to be corrected by any gentleman, if there be any such clause in our constitution I hope some gentleman will have the goodness to point it out, for I desire to be enlightened on this subject, if I am in error, but perhaps the Senator from Trumbull and Medina will contend that the clause in the constitution is one which needs no legislation, in order to make it effective, but that it executes itself, this doctrine I know has been advocated by some, but I am inclined to think that upon a close view of the subject, it will be found to be entirely untenable, how would it operate in practice, suppose the owner of a slave in Kentucky should pursue a fugitive from labor into Ohio and undertake to recapture and carry him back, not to "old Virginia," but to old Kentucky, and suppose the citizens should rise up and release such supposed fugitive, what law would the citizens violate? and how would the claimant enforce his right so clearly defined in the constitution, he would not have the power to call upon the *Posse comitatus* to insist him, and if he had, it would not be obeyed, he could not bring a sufficient force from his own State to enable him to reclaim his property, such a state of things would lead to a collision between the two States at once, in this dilemma, the congress of the United States steps in and enacts a law which is equally binding on the citizens of Kentucky and Ohio and all other States alike. I said in the outset of my remarks, that I had objections to the fugitive law, and perhaps I might as well state my objections here: I object to that part of the law which holds the officer liable in the case of an escape *without* his consent, this in my judgment, is wrong, no officer ought to be punished unless he commits a crime or be held liable for that which is beyond his control, it would be radically wrong to fine an officer who had in good faith and with an honest intention done all in his power to carry out the law, but for causes beyond his control he was unable to do so. Another objection is that which makes a difference in the compensation paid Commissioners when they find in favor of the claimant, in my judgment this is improper and ought to be stricken out. Judicial and ministerial officers should be paid certain fees for services rendered without reference to the result of the investigation, it looks too much like bribery—at least, it gives room for those who object to the law, to complain, and in the passage of such laws, great care should be taken to keep out any thing and every thing which looks like bribery or corruption. There is certainly no good reason why the Commissioners should be allowed double compensation when he finds in favor of the claimant, and it is safer not to place such temptations before frail humanity. The other objection is to that part of the law which makes the certificate or record produced by the claimant *conclusive* of his right to the services of such fugitive, it seems to me that question ought to be left open for controversy, and be subject to be disproved by counter testimony on the part of the fugitive. There may be other and perhaps are other objections to the bill. I have not given it that close examination which I desire to do, but have not had sufficient time, in consequence of the press of other duties, but with the amendments I have suggested I should be willing to abide by the provisions of the law, and oppose its repeal, having now disposed of my objections to the law. I will leave that part of the subject and return to the positions of the Senator from Trumbull. I have at least satisfied myself that the power to pass the law is clearly implied

in the clause of the constitution which I have quoted, to the second part of the objections urged by the Senator from Trumbull, viz: that it is in conflict with other portions of the constitution securing personal liberty, in support of his position he has read several clauses of the federal constitution, but those on which he mainly depends, provides that "no person shall be deprived of life, liberty or property, without due process of law," (see Article V. of the amendments to the Constitution,) that the right of trial by jury shall be preserved," (Sec. VII.) and that other clause upon which so much stress is placed by those opposing this law, viz:

"The privilege of the writ of Habeas Corpus, shall not be suspended unless when in cases of rebellion or invasion the public safety may require it."

Now Mr. Speaker, let us take up these points *seriatim*, and examine them, and see if there be any thing in them to sustain the doctrine of the Senator from Trumbull, and first, what is meant by the words "due process of law." It seems to me this language is not ambiguous, but it is in the common and ordinary language, generally used in expressing similar ideas, in every day transactions. "Due course of law" in my judgment, means according to the terms of the law governing any particular or given subject. "Due" is defined to be "proper," "fit," "exact," "exactly," "nicely," "duly." The word "*Process*," is defined to mean in law, "The whole course of proceeding in a cause, real or personal, civil or criminal, from the original writ to the end of the suit—the words "of law," simply refers to the law regulating the subject under consideration or investigation, taking the sentence therefore in connection, it means nothing more nor less than this, that the officer whose duty it is to enforce the provisions of any given law, shall be governed by the "exact" and "proper" course of proceeding" pointed out in that law, from the time he issues the writ until the end of the suit—the words do not in my judgment, refer to the justice or injustice of the law. The law may be severe, and in some instances unjust, but it is not the province of the executioner of the law, to make the inquiry, is this law cruel? is it unjust in its provisions? And if these questions shall be answered in the affirmative, then disobey it. Many of our laws, both state and national, are by some very good citizens, and even by some *Judges*, believed to be not only unjust, but actually cruel in their operations. The "death penalty law," as it is called, for instance, is by a large number of our people, held in utter abhorrence, and looked upon as a relic of barbarism, and your table is now groaning under the weight of petitions presented here, asking for its repeal, yet none, I apprehend, will be found with hardihood enough to advise your Judges and courts to set it at naught, and disobey its positive injunctions. The two cases, in my judgment, are parallel, and all will agree that if the accused is convicted by "due course of law," it is the bounden duty of the administrators of the law, to pronounce the sentence attached to the crime, and not only pronounce the sentence, but to see that it is executed. Now if in the "due course" of the law under consideration, the fugitive is carried back into bondage from which he had escaped, it may be depriving him of his liberty, yet I apprehend that no one will contend that it is unconstitutional. The man who violates the laws of Ohio, and by "due course" thereof is sent to the Penitentiary for life, is deprived of his liberty, the punishment may not be properly proportioned to the offense, and consequently cruel, yet it is strictly constitutional, if the person claimed is not a slave, the "due course," of the law will not make him one, and if he is a slave, the "due

course" of the law will not deprive him of his liberty, it seems to me, that I have said enough, on this point of the gentleman's argument.

There is, however, one view of the question which I wish to submit. I have not yet seen it advanced by any person who has spoken on the subject. I may be mistaken, but I have given it some thought, and it seems to me the position is a good one. The Constitution of the United States recognizes the *right* in the citizens of slave states, to hold slaves, and the constitution and laws of those states, recognizes slaves as *property*. Now that clause in the federal constitution, which says "that no person shall be deprived of life, liberty or *property*, without due process of law," includes within its scope the slave holder, whose *right* to the *property* in his slave, is guaranteed to him by the constitution, as fully as it includes the *right* of a Western-Reserve-Yankee to the *property* in his *Cheese*, and if he can only be deprived of that right by "due process of law," there must unquestionably be a *law* by "due process or course," of which his right is to be affirmed or denied, according to the requirements of that law. If the slave holder has *property* in his slave, and that slave escapes into a free state, and he is deprived of his *property* by means of mob violence or physical force, will any one contend that he is deprived of his *property* by "due process of law?" which according to the constitution is the only way in which he can be deprived of it, the wording of the constitution presupposes the necessity of a law, for the protection of the citizens of Louisiana and Virginia, as well as those of Ohio and New York, and in my judgment, Congress not only possesses the power, but is the proper authority to enact that law, but enough on this point.

I will therefore leave it for the judgment of the Senate to determine whether the Senator from Trumbull or myself be correct, and pass to the second branch of his argument, viz: "the right of trial by jury." I have already quoted the passage relied on, and shall not again trouble the Senate with a repetition of it, yet I apprehend that even the Senator from Trumbull, upon a more critical examination of this law, will not contend that that constitutional provision is violated by the so called fugitive law. The fugitive has the right, and I am credibly informed, by those who are better informed on this subject than I am, that the slave, in all the slave States, has the right to try the question of their freedom by a jury, in the same manner as other questions are heard and determined. I have read the law of Virginia on this subject, and so far as that State is concerned, I know that I am correct. The proceedings under this fugitive law are only preliminary, and are similar in character to those under the law regulating fugitives from justice, to which I shall advert by and by. The commands or injunctions of the constitution are imperative. "*Shall* be delivered up on claim of the party," &c., not *may* be delivered up, but *shall*. It is an obligation which cannot be avoided any more than can the provision to "provide for the common defence and general welfare of the United States." Both are alike imperative, and both alike demand the action of Congress for the purpose of making those provisions effective. It no more deprives the fugitive from labor of his liberty than it does the fugitive from justice. But I have done with this part of the argument, and shall refer very briefly to that part which relates to the "suspension of the writ of *habeas corpus*." I shall not enter into a minute examination of what the writ is, or its peculiar office, for two reasons. I am not disposed to consume the time of the Senate, and am not possessed of sufficient legal attainments to give that clear and lucid definition which would be calculated to throw any new light on the subject. I believe

the writ of *habeas corpus* is pretty well understood in this country. It goes to the examination of the *authority* by which a man may be held or imprisoned; and if he is found to be held or detained in custody by "due course of law," the writ is entirely and absolutely powerless to grant him his liberty. And I go further, Mr. Speaker, and hold that under our law in Ohio, the Judge or court before whom a person may be brought, on a *habeas corpus* has no right to inquire into the guilt or innocence of the party accused, or investigate the truth of the accusation. If Judges and courts have the right to try and acquit or convict, it seems to me it would more effectually abolish the right of trial by jury than anything contained in the fugitive law. And when courts have examined into the *legality* of the process by which a person brought before them is held, they have exhausted their power, and the writ has performed its office.

Now how is it under the operation of this law? After the arrest of a fugitive, and even after the warrant has been issued by the commissioner, he is as much the subject of the writ of "*habeas corpus*," as any other person in the custody of an officer on a charge of petit larceny. Under the laws of your State, the writ, may be issued, but I admit that if the proceedings under the law, have been held in "due course," the writ will not set him at liberty. Neither would it set at liberty the man who is held by virtue of a warrant issued from one of the Justices of the Peace of your State, if properly and legally issued in pursuance of the laws of the land. I am justified in asserting that the writ of *habeas corpus* will issue, as in other cases. A case in point, lately took place in the city of New York. Application was made to one of the Judges for the writ, it was promptly granted and as promptly issued, it spent its force as in all other cases, and in every particular performed the proper functions assigned it. I might quote the authority of eminent Jurists, to sustain me in the positions which I have taken, but I choose to judge for myself. I have not as you will have seen, Mr. Speaker, brought into the Senate the writings, or speeches of any man. I prefer to rest the question on the constitution, and on that alone, for when all is said, that can be said, it must stand or fall upon the authority that instrument. I have great respect for the opinion of eminent jurists, who have spoken and written upon this question many of whom have written able arguments, but in a question of this kind, I allow no man to form opinions for me. I alone, am responsible for my acts, and prefer to form my own opinions, and if right, it will be a gratification to myself at least, and if wrong, let the consequences come, they will fall on my own head, and not on another.

The Senator from Trumbull has denied the power of Congress, to pass the law of 1793, on the subject of "Fugitives from Justice," this is the first time, Mr. Speaker, that I have ever heard the constitutionality of that law called in question, and I must confess that I was a little astonished to hear the declaration come from the Senator from Trumbull, (Mr. Sutherland) for I have great respect for his legal abilities; that law was passed at the same session at which the original "fugitive law" was passed, and both were passed during the administration of Washington, and that too, within four years from the adoption of the Federal Constitution, General Washington having been the President of the Convention which framed that instrument, and it might be readily supposed that he knew something about what powers were conferred on Congress by the provisions of the Constitution, that law has not only received the sanction of Gen. Washington, but it has stood the test of time for fifty-seven years; but now, at this late day, gentlemen, in

order to sustain their position, are driven to the necessity of declaring its unconstitutionality, and thus indirectly charge the "Father of his Country," with the crime of moral perjury; this is the untenable position of the Senator from Trumbull.

Mr. Sutliff. The Senator is mistaken, I did not charge Gen. Washington with moral perjury. I did not think so and did not intend to say so, and thank I did not.

Mr. Burns. I stand corrected. I do not desire to misrepresent any gentleman, but when the gentleman is driven to the necessity of charging a violation of the constitution upon Gen. Washington, he will find it a very hard matter to get the American people to believe it.

Mr. Myres, did not Gen. Washington sign a United States Bank bill, which the Senator from Richland now believes to be unconstitutional?

Mr. Burns, certainly he did, but the gentleman must recollect that that question rests on very different ground from the law under consideration and the history of the passage of the bank bill shows that Gen. Washington had great doubts as to the Constitutionality of that law and submitted the question to his cabinet, his cabinet divided upon the question, and in this condition of affairs Gen. Washington signed the bill, still however with strong doubts resting upon his mind, but with the declaration "that when doubts existed where he was not clear and decided, he was willing to yield to Congress," and it was not until that question came within the control, and under the iron will and mighty pen of Andrew Jackson in 1832, that it received its final quietus. But Mr. Speaker I was going on, when interrupted to say that the people would not readily believe that Gen. Washington had knowingly violated the Constitution, the law has been in force for more than half a century, all the States of the Union or the Executives thereof have acted under it, fugitive after fugitive have been delivered up according to its requisitions and yet we find its constitutionality called in question for the first time in this Senate chamber.

Mr. Sutliff. The supreme court in the State of New York have decided it unconstitutional. Was not the Senator aware of it?

Mr. Burns. I was not, but if the Senator asserts such to be the fact, I am bound to believe it, but if that argument has any weight in it, it will act both ways, for the Supreme court have decided the fugitive Slave law of 1793, constitutional, the authority therefore is as much in favor of my position as that of the Gentleman from Trumbull.

But, Mr. Speaker, we have another doctrine advocated here by the Senator from Medina, (Mr. Pardee.) I mean the "higher law" doctrine. I do not intend to take up the time of the Senate in replying to such doctrine. I confess frankly, Mr. Speaker, that I have not patience to listen to, nor respect for such doctrine, come it from whom it may. I respect the Senator from Medina as a man, but I must be allowed to say with all my respect for him, that I consider he is employing his talents in a very poor business; that Senator says that whenever he is brought to believe that the Constitution of the United States will authorize Congress to pass a law which will, in his opinion, conflict with what he considers to be the law of God, that he will disobey that law and obey the law of God. That doctrine at once resolves itself into this, that every man is at liberty to act as his conscience shall dictate, without reference to law, constitution, or anything else, and just as his conscience shall be, right or wrong, so will his acts be. Now supposing the conscience of the Senator from Medina should undergo a change in twelve months from this time by which he would be brought to believe that it was

contrary to the laws of God for him to obey the plain and positive injunctions of the Constitution, would he do so? We know that there are men in the United States who declare the Constitution to be a "league with hell," and a "contract with devils." What assurance have we or the Senator himself that he will not think the same way before another year shall pass away; but I will not argue the question, it is so absurd that the Senator ought to be ashamed to advocate it before an enlightened American audience.—The Constitution may not be and doubtless is not perfect, what ever emanated from the hand of finite wisdom that was perfect? but under its protection, and guided by its principles we have lived for more than sixty years. We have grown from three to twenty millions of people, and from thirteen States stretched along the Atlantic coast, we now number thirty-one mighty empires, in point of wealth, resources and power; the fires of liberty light up every hill top, and the song of freedom reverberates through every valley from the Lakes on the north, to the Rio Grande on the south, and from the utmost verge of Plymouth rock, on the east, to the sea beaten capes of California on the west, at a time when the eyes of all the civilized world are upon us, when we are pointed to as the "model Republic," when the Lamartines and the Kossuths of the old world are leading their countrymen to deeds of glory and renown, in striving to imitate us, shall we allow the sun of our glorious Union to go down in darkness, or be eclipsed or dimmed in its noon day splendor? Never, never, no never!

Let me ask gentlemen who hear me, where we, as a nation, would now be had no union of the States been formed? I confess, Mr. Speaker, I have asked a question I cannot answer myself. Where would we now be? Echo answers where? We can only imagine where. This every Senator can do for himself; for me, Mr. Speaker, my imagination paints upon the canvass, so dark and forbidding a picture that I shudder at the thought of bringing it to light, yet dark and forbidding as it is, I am satisfied that it falls far below the reality, instead of thirty-one free sovereign and independent States, in which peace, happiness, and contentment characterize the people at home, and wisdom, patriotism and love of liberty characterize them abroad.

We would now have as many little petty sovereignties, ruled by the "divine right of Kings," mutually warring upon each other with a hired soldiery to eat out our substance and consume the earnings of honest industry, unable to be at peace, and yet unable to go to war, without credit at home or respect abroad, who would desire such a government in room of the one handed down to us by our forefathers, and which I trust in God may be transmitted by us to our posterity untarnished, and by them through successive generations until the end of time. And yet with all these consequences staring us in the face, we hear of men who have stood high in the estimation of their fellow man for wisdom and patriotism, gravely meeting in convention, and as gravely considering resolutions, having for their object a dissolution of the Union. Meeting in Convention, did I say? Yes; and that, too, on the very grave as it were, of the hero of New Orleans; but fanaticism and disunion are not confined to the South. They have their emissaries in the north too, and the land consecrated to liberty and union by the blood of those who sacrificed their lives on the altar of freedom, is heard to resound with the soul-chilling cry of "disunion," "disunion."

I am no alarmist, I do not wish to be understood as entertaining the idea that the Union is in danger, but I believe in obeying the injunction of Gen. Washing-

ton, by "frowning upon the first dawning of any attempt to dissolve the Union," what a thought for the true lover of his country—to see the beautiful tree of Liberty, whose branches have spread far and wide, and whose green and beautiful foliage forms a shade, beneath which, the down-trodden and oppressed of other climes, may seek and find repose from the scorching rays of the sun of tyranny in the land of his nativity—to see this emblem of freedom, stripped of its foliage, its branches broken off, and its naked and decayed trunk standing alone and desolate, on the barren sands of anarchy and ruin, would be enough to cause the current of life to dry up, and death be considered as a welcome visitor. It is a sight which I hope that neither I nor my posterity after me may be called upon to witness; my only hope is that the Union may be preserved until every nation under Heaven may be brought within its comprehensive influence, and until the blessings of civil and religious liberty shall warm the heart, and animate the bosom of every human being on the whole face of God's earth; then, and not till then, shall our government have filled up the measure of usefulness, for which it was originally designed—for myself, Mr. Speaker, I desire that when I shall have lived out my brief period upon the stage of human existence, and be called upon to pass away from earth, that my eyes may be permitted to gaze upon the flag of freedom as it waves proudly in the breeze, without one star obliterated, or a single stripe stripped of its original splendor, and having done my duty to my country, and to my God, I desire that the last words which may be permitted to linger on my faltering tongue shall be—Preserve the Union! Preserve the Union!;